IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 5TH MARCH 2007 / 14TH PHALGUNA 1928

WP(C).No. 23797 of 2006(G)

PETITIONER:

NISHA SANKAR,
AMRITA, KERA-A/73, THIRUNELLIYOOR LANE,
KUNDAMON BHAGAM, PEYAD P.O.,THIRUVANANTHAPURAM.

BY ADV. SRI.P.B.SURESH KUMAR,
SRI.K.GEORGE.

RESPONDENTS:
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1. **STATE OF KERALA,**
   REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT,
   GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. **THE SCREENING COMMITTEE FOR CLEARANCE**
   AND VERIFICATION OF SC/ST CLAIM REPRESENTED BY
   ITS CONVENER, OFFICE OF THE COMMISSIONER FOR
   ENTRANCE EXAMINATION, 5TH FLOOR, HOUSING BUILDING,
   SANTHI NAGAR, THIRUVANANTHAPURAM.

3. **COMMISSIONER FOR ENTRANCE EXAMINATION,**
   OFFICE OF THE COMMISSIONER FOR ENTRANCE
   EXAMINATION, 5TH FLOOR, HOUSING BOARD BUILDING,
   SANTHI NAGAR, THIRUVANANTHAPURAM.

4. **VIGILANCE OFFICER,**
   VIGILANCE CELL, DIRECTORATE OF KIRTHADS,
   KOZHIKODE-17.

BY SPL. GOVERNMENT PLEADER SRI. C.T. RAVIKUMAR.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/03/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.23797/2006:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE CASTE CERTIFICATE ISSUED TO THE FATHER OF THE PETITIONER BY THE TAHSILDAR, FORT TONDIARPET TALUK, MADRAS, DTD. 01/12/1980.

EXT.P.2: COPY OF THE G.O. (MS) NO. 10/86/SCSTD DTD. 12/02/1986.

EXT.P.3: COPY OF THE REPORT OF THE R.4. WITHOUT THE DOCUMENTS, DTD. 21/06/2006.

EXT.P.4: COPY OF THE ORDER NO. CEE.B3/796/06 (9) ISSUED BY THE R.2. DTD. 11/07/2006.

EXT.P.5: COPY OF THE GOVERNMENT OF INDIA (SCHEDULED CASTE) ORDER, 1936, DTD. 30/04/1936.

EXT.P.6: COPY OF THE TERRITORIAL CONSTITUENCIES OF THE MADRAS PROVINCE AS PROVIDED UNDER THE GOVERNMENT OF INDIA (PROVISIONAL LEGISLATIVE ASSEMBLIES) ORDER 1936.

EXT.P.7: COPY OF THE CONSTITUTION (SCHEDULED CASTES) ORDER 1950.

EXT.P.8: COPY OF THE CONSTITUTION (SCHEDULED CASTES) ORDER 1950 AS AMENDED BY THE SCHEDULED CASTE AND SCHEDULED TRIBES LISTS (MODIFICATION) ORDER 1956.

//TRUE COPY//

prv.

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 23797 OF 2006-G

JUDGMENT

The petitioner's father belongs to Adi Dravida community. Her mother belongs to Ezhava community. She submits, Adi Dravida is a scheduled caste in Tamil Nadu as well as in Kerala. The petitioner's father belongs to Tamil Nadu. Her mother is a Keralite. Now, her parents are settled in Thiruvananthapuram. The petitioner claimed the benefit available to the members of scheduled caste communities, when she applied for admission to Medical and other related courses. Her claim was investigated by the KIRTADS and Ext.P3 report was submitted, holding that she is not eligible to get scheduled caste status. Based on that report, the 3rd respondent Commissioner for Entrance Examinations passed Ext.P4 order, rejecting her application. This writ petition is filed, challenging Exts.P3 and P4.

2. The case of the petitioner is that Adi Dravida community was a scheduled caste in the erstwhile Madras Province, which included Malabar area also. Some of the members of the community were residing in Malabar. In Travancore-Cochin area there was no such caste. But, when

the States Re-organization Act came into force with effect from 1.11.1956, the members of the Adi Dravida community residing in Malabar area were treated as scheduled caste in Kerala. The Presidential order was amended and the result was that the members of Adi Dravida community in Tamil Nadu and the members of Adi Dravida community in Kerala were treated as belonging to scheduled caste in the respective States. According to the petitioner, there is only one community called Adi Dravida, which is spread over Tamil Nadu and Kerala. Only because of the States re-organisation, the members of the said community happened to be in two States. Therefore, the petitioner is eligible to be treated as member of the scheduled caste community, it is submitted. Though this claim was not raised before the respondents, her claim in this regard raised in the writ petition, is not seriously disputed by them, points out the petitioner. Therefore, she prays for a direction to the competent authority to consider her claim, based on the above ground. The petitioner points out that her claim was considered, treating her father as a migrant from Tamil Nadu, in the light of G.O.(MS) No.10/86/SC/ST.DD dated 12.2.1986 (Ext.P2).

3. The learned Government Pleader opposes the prayer of the petitioner. He points out that the petitioner does not have a claim that her father is a descendant of the Adi Dravida community in Malabar and

therefore, she is eligible to get the scheduled caste status.

4. As the point raised by the petitioner is not seriously disputed in the counter affidavit of the respondents, the same requires consideration by respondents 2 and 3, if necessary by obtaining a fresh report from the 4th respondent. Accordingly, the matter is remitted to respondents 2 and 3 for fresh decision in the matter in accordance with law, uninfluenced by the stand taken in Exts.P3 and P4. The petitioner shall file a detailed representation setting out her claim before the 3rd respondent, along with a copy of this judgment. In that event, the decision as directed above, shall be taken within four months from the date of receipt of a copy of this judgment.

The Writ Petition is disposed of as above.

5th March, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/